

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A SYSTEM FOR PROVIDING DEATH, DISABILITY, AND
5 RETIREMENT BENEFITS TO SCHOOL TRUSTEES; GENERALLY PROVIDING FOR THE ADMINISTRATION
6 OF THE BENEFITS; CREATING A SCHOOL TRUSTEES' PENSION TRUST FUND FROM WHICH DEATH,
7 DISABILITY, AND RETIREMENT BENEFITS MUST BE PAID; ESTABLISHING ELIGIBILITY CRITERIA, THE
8 BENEFIT STRUCTURE, AND VARIOUS PROCESSES REGARDING DEATH, DISABILITY, AND RETIREMENT
9 BENEFITS FOR SCHOOL TRUSTEES; FUNDING SCHOOL TRUSTEE BENEFITS THROUGH THE SCHOOL
10 RETIREMENT LEVY; STATUTORILY APPROPRIATING FUNDS FOR THE PURPOSES OF PROVIDING THE
11 BENEFITS; AMENDING SECTIONS 17-7-502, 20-2-121, AND 20-9-501, MCA; AND PROVIDING AN
12 EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15
16 NEW SECTION. **Section 1. Short title.** [Sections 1 through 31] must be known and may be cited as
17 the "School Trustees' Compensation Act".

18
19 NEW SECTION. **Section 2. Definitions.** Unless the context requires otherwise, as used in [sections
20 1 through 31], the following definitions apply:

21 (1) "Benefit" means the pension, disability, or survivorship benefit provided under [sections 1 through
22 31].

23 (2) "Board" means the teachers' retirement board provided for in 2-15-1010.

24 (3) "Claim" means a request from a member, surviving spouse, or dependent child for payment of
25 medical or funeral expenses.

26 (4) "Department" means the department of administration.

27 (5) "Dependent child" means a child who is unmarried, who is under 18 years of age, and who is the child
28 of a deceased member.

29 (6) "Disability" or "permanent total disability" means permanent total disability as defined in 39-71-116.

30 (7) "Fiscal year" means the 12-month period that begins on July 1 and ends on June 30 of the following

1 year.

2 (8) "Member" means a school trustee who has service credited under [sections 1 through 31].

3 (9) "Pension trust fund" means the school trustees' pension trust fund established in [section 6] to pay
4 claims and benefits under [sections 1 through 31].

5 (10) "Retiree" or "retired member" means a member who is receiving full or partial participation benefits
6 or disability benefits from the pension trust fund.

7 (11) "School district" has the meaning provided in 20-6-101.

8 (12) "School trustee" means an individual elected or appointed to serve on the board of trustees of a
9 school district.

10 (13) "Service" means cumulative periods of membership while a school trustee that are credited only in
11 full fiscal year increments.

12 (14) "Supplemental insurance" means insurance that is carried by a school district for the purposes of
13 providing disability or death benefits and that is in addition to any insurance required by law, including workers'
14 compensation insurance.

15 (15) "Surviving spouse" means the spouse married to a member when the member dies.

16 (16) "Survivorship benefit" means the monthly benefit paid to the surviving spouse or dependent child
17 of a deceased member.

18
19 **NEW SECTION. Section 3. Payments to school districts maintaining supplemental insurance.** To
20 encourage and aid school districts in maintaining supplemental insurance to provide benefits when members are
21 injured or killed while performing duties as school trustees, the board shall authorize payment of \$150 a year for
22 each school board operating within the school district. Payment must be a charge against the pension trust fund
23 and must be paid to each school district that maintains supplemental insurance or to the organization or agency
24 that maintains supplemental insurance for a school district.

25
26 **NEW SECTION. Section 4. Penalty.** A person required by [sections 1 through 31] to make a statement
27 or affidavit who knowingly falsifies the statement or affidavit or a person who files a false claim under [sections
28 1 through 31] is guilty of a misdemeanor and upon conviction shall be punished by a fine in an amount not
29 exceeding \$1,000 or by imprisonment for a term not exceeding 1 year, or both.

30

1 **NEW SECTION. Section 5. Duties and conduct of school trustees.** (1) The duties and conduct of
2 a school trustee include executing the powers and duties of a school district under Title 20.

3 (2) The duties and conduct include travel to, participation in, and return from official business of the
4 school district as a school trustee.

5
6 **NEW SECTION. Section 6. Pension trust fund established -- restrictions on use.** (1) A pension trust
7 fund is established and maintained for payment of claims and benefits provided under [sections 1 through 31]
8 and the school trustees' pension plan.

9 (2) The pension trust fund must be funded on an actuarially sound basis. For purposes of this
10 subsection, "actuarially sound basis" means that contributions must be sufficient to pay the full actuarial cost of
11 the fund. The full actuarial cost includes both the normal cost of providing benefits as they accrue in the future
12 and the cost of amortizing unfunded liabilities over a scheduled period of no more than 30 years.

13 (3) Except as provided in this section, a member or an employee of the department or the board of
14 investments may not:

15 (a) have any interest, direct or indirect, in the making of any investment or in the gains or profits accruing
16 from the pension trust fund;

17 (b) directly or indirectly, for the member or employee or as an agent or partner of others, borrow from
18 the pension trust fund or deposits;

19 (c) in any manner use the pension trust fund, except to make current and necessary payments that are
20 authorized by the board; or

21 (d) become an endorser or surety as to or in any manner an obligor for investments for the pension trust
22 fund.

23 (4) The assets of the pension trust fund may not be used for or diverted to any purpose other than for
24 the exclusive benefit of members, their surviving spouses, and their dependent children and for paying the
25 reasonable administrative expenses of administering [sections 1 through 31].

26 (5) Upon the termination of the pension trust fund, the substantial reduction in the number of members
27 that would constitute a partial termination of the pension trust fund, or the complete discontinuance of
28 contributions to the pension trust fund, the pension benefit accrued to each member directly affected by the
29 occurrence becomes fully vested and nonforfeitable to the extent that the benefit is funded.

30

1 **NEW SECTION. Section 7. Employment of actuary -- biennial investigation.** (1) The board shall
2 retain a competent actuary who is an enrolled member of the American academy of actuaries and who is familiar
3 with public pension systems. The actuary is the technical adviser to the board on matters regarding the actuarial
4 funding of the pension trust fund.

5 (2) The board shall require the actuary to make a biennial actuarial valuation of the assets and liabilities
6 of the pension trust fund. The actuarial valuation must include the sufficiency of the fund to pay full and partial
7 benefits to members and benefit recipients and must include recommendations for any changes that should be
8 made to those benefits or the contributions to the pension trust fund to ensure the actuarial soundness of the
9 pension trust fund.

10 (3) The board shall require the actuary to conduct periodic actuarial experience studies of the pension
11 trust fund and to recommend any changes in actuarial assumptions or tables based upon the studies.

12

13 **NEW SECTION. Section 8. Credit for service as school trustee.** (1) The annual period of service that
14 may be credited under [sections 1 through 31] is the fiscal year. To be eligible to receive service credit for a full
15 fiscal year, a school trustee shall have served as a school trustee for more than 6 months of the fiscal year. The
16 first fiscal year for which a school trustee may claim service is the fiscal year beginning July 1, 2002.

17 (2) The years of service are cumulative and need not be continuous. Separate periods of service
18 properly credited with different school districts in the same or among different political jurisdictions within this state
19 must be credited toward a member's eligibility for full or partial benefits.

20 (3) A school trustee must receive credit for service of 1 full year during any fiscal year if:

21 (a) during the fiscal year, the school trustee completes a minimum of 30 hours of instruction in matters
22 pertaining to school administration, education policy, budgeting, education law, or other relevant subjects under
23 a formal program that has been formulated, supervised, and certified to the board by the board of public
24 education pursuant to 20-2-121;

25 (b) the school trustee's participation in the program is documented in the board's or the board of public
26 education's records; and

27 (c) the school district in which the school trustee served for more than 6 months of the fiscal year
28 operated a public school for at least 6 months during the fiscal year.

29

30 **NEW SECTION. Section 9. Administration of [sections 1 through 31].** (1) The board is the trustee

1 of all money collected under [sections 1 through 31] and has exclusive control of the administration of the pension
2 trust fund except as otherwise provided by law.

3 (2) The department shall deposit in the state treasury all amounts received by it as provided in [sections
4 1 through 31].

5 (3) The state treasurer is the custodian of the pension trust fund, subject to the control of the board for
6 the administration of the fund and the board of investments for the investment of the fund.

7 (4) The board shall review the sufficiency of benefits provided under [sections 1 through 31] and
8 recommend to the legislature any changes in benefits that may be necessary to allow retired members and their
9 beneficiaries to maintain a stable standard of living.

10
11 **NEW SECTION. Section 10. Reports of board.** (1) As soon as practicable after the close of each fiscal
12 year, the board shall file with the governor a report covering administration of [sections 1 through 31] for that fiscal
13 year.

14 (2) The report must include:

15 (a) a statement of the accumulated cash and securities in the pension trust fund as certified by the state
16 treasurer and the board of investments; and

17 (b) the most recent published report of the actuary of the actuarial valuation of the assets and liabilities
18 of the plan.

19
20 **NEW SECTION. Section 11. Rules to be made by board.** The board shall make rules that it considers
21 necessary and advisable in its administration of [sections 1 through 31] and the school trustees' pension plan.
22

23 **NEW SECTION. Section 12. Administrative expenses.** Necessary expenses for the administration
24 of [sections 1 through 31] and the school trustees' pension plan are a charge against the pension trust fund. The
25 necessary administrative expenses attributable to [sections 1 through 31] must be paid from the investment
26 earnings on the public employees' pension trust fund. Before fiscal yearend closing, the board shall compute the
27 expenses directly or proportionally attributable to [sections 1 through 31] over the past fiscal year and transfer
28 that amount from the pension trust fund to the public employees' pension trust fund.

29
30 **NEW SECTION. Section 13. Contributions to be paid into pension trust fund.** (1) (a) Beginning

1 July 1, 2007, each school district in the state shall pay each month to the state treasurer as contributions to the
2 pension trust fund an amount equal to \$110 for each school trustee serving in the district. Upon receiving the
3 contributions, the state treasurer shall deposit all of the contributions in the pension trust fund.

4 (b) The money paid by the school districts to the state treasurer under subsection (1)(a) for deposit into
5 the pension trust fund is statutorily appropriated, as provided in 17-7-502.

6 (2) Money in the pension trust fund must be used for the payment of claims, benefits, and administrative
7 costs as provided in [sections 1 through 31].

8
9 **NEW SECTION. Section 14. Investment of pension trust fund.** (1) The pension trust fund must be
10 invested by the board of investments as part of the unified investment program described in Title 17, chapter 6,
11 part 2.

12 (2) All income earned on any assets constituting a part of the pension trust fund must be paid into the
13 pension trust fund as received.

14 (3) For investment purposes, the pension trust fund may be commingled with other pension funds
15 administered by the board, but a separate account must be maintained for each system.

16
17 **NEW SECTION. Section 15. Eligibility for pension and disability benefits.** (1) To qualify for a full
18 pension, partial pension, or disability benefit under [sections 1 through 31], a member must meet the
19 requirements of subsections (2) through (4).

20 (2) (a) For a full pension benefit, a member must have completed 20 years of service and must have
21 attained 55 years of age, but need not be a school trustee when 55 years of age is reached.

22 (b) A member who is prevented from completing at least 20 years of service may qualify for a partial
23 pension benefit if the member has completed at least 10 years of service and has attained 60 years of age, but
24 need not be a school trustee when 60 years of age is reached.

25 (3) A school trustee whose duty-related injury results in permanent total disability as determined pursuant
26 to [section 24] is eligible, regardless of age or service, to receive a disability benefit.

27 (4) (a) To receive a pension or disability benefit, a member may not be a school trustee; and

28 (b) a member who receives a pension or disability benefit under [sections 1 through 31] may not become
29 a school trustee.

30

1 **NEW SECTION. Section 16. Certificate of eligibility.** (1) A member who claims eligibility under
2 [sections 1 through 31] shall, on or before June 1 of each year, file a certificate on a form to be provided by the
3 board, subscribed and verified under oath before a notary, stating that the member qualified under [section 8(3)]
4 during the fiscal year. The certificate must list the member's full name, social security number, and date of birth,
5 state that the member was a school trustee for more than 6 months of the preceding fiscal year, and state that
6 the member satisfactorily completed 30 hours of instruction during the preceding fiscal year as required by
7 [section 8(3)]. The certificate must be maintained by the board for the purpose of establishing service credits for
8 the member and eligibility for benefits.

9 (2) (a) The board shall adopt rules that establish forms and procedures that a member is required to
10 follow to certify and claim service earned after June 30, 2002, and prior to July 1, 2007.

11 (b) A member may not claim service earned prior to July 1, 2002.

12 (c) A claim for service earned after June 30, 2002, and prior to July 1, 2007, must be filed with the board
13 before July 1, 2008. The board may not accept a claim filed under this subsection (2) after June 30, 2008.

14
15 **NEW SECTION. Section 17. Application for benefits.** (1) Benefits for which members are eligible
16 under [sections 1 through 31] are first payable beginning July 1, 2017.

17 (2) A member may apply for retirement benefits as provided in this section before terminating service,
18 but commencement of the benefits must be as provided in [section 25].

19 (3) A member, surviving spouse, or dependent child shall apply for benefits on a form provided by the
20 board.

21 (4) The application must contain:

22 (a) the name, address, and date of birth of the member, surviving spouse, or dependent child;

23 (b) the date of birth of the member;

24 (c) the date of the member's death, if applicable; and

25 (d) the fiscal years during which service credit is claimed.

26 (5) The board may require any proof of age, death, and service that it may consider proper, but it shall
27 accept a certificate properly completed and timely filed under [section 16] as prima facie proof of service.

28
29 **NEW SECTION. Section 18. Amount of pension and disability benefits.** (1) Each eligible member
30 must receive a pension or disability benefit as provided in this section.

1 (2) (a) Except as provided in subsection (2)(c), the full pension benefit paid to eligible members is \$150
2 a month.

3 (b) A partial pension benefit is calculated by multiplying the full pension benefit in subsection (2)(a) by
4 a fraction, the numerator of which is the eligible member's years of service and the denominator of which is 20.

5 (c) The full pension benefit of a member who continued to be a school trustee after completing 20 years
6 of service must be increased by \$7.50 a month for each additional year of service that the member completed
7 after 20 years of service, up to 30 total years of service.

8 (3) The disability benefit paid to an eligible member is calculated in the same manner as partial pension
9 benefits described in subsection (2)(b), except that the numerator may not be less than 10.

10 (4) If any fraudulent change or any inadvertent mistake in records results in any member, surviving
11 spouse, or dependent child receiving more or less than entitled to, then on the discovery of the error, the board
12 shall correct the error and adjust the payments to the member, surviving spouse, or dependent child in an
13 equitable manner.

14
15 **NEW SECTION. Section 19. Survivorship benefits to surviving spouse or dependent children.**

16 (1) Subject to subsection (2) and the limitation in subsection (4), survivorship benefits equal to the full or partial
17 pension benefits otherwise payable to the deceased member must be paid or continue to be paid to:

18 (a) the surviving spouse, unless the spouse is convicted of knowingly, purposely, or intentionally causing
19 a member's death or disability;

20 (b) the dependent children upon the spouse's death; or

21 (c) if the deceased member left no surviving spouse but left a dependent child, to the guardian or other
22 person having custody of the dependent child.

23 (2) Benefits payable to a dependent child must be paid pursuant to 19-2-803.

24 (3) The survivorship benefit must be paid in each of the following circumstances:

25 (a) the death on or after July 1, 2017, of a member who had at least 10 years of service and who was
26 not receiving pension benefits; or

27 (b) the death on or after July 1, 2017, of a retired member who was receiving pension benefits but who
28 had not received benefits for a total of 40 months.

29 (4) Survivorship benefits under this section terminate when benefits have been paid for a total of 40
30 months, including any pension or disability benefits paid to the retiree before death. At the request of the recipient

1 of the survivorship benefit, a lump-sum payment may be made in lieu of up to 40 months of survivorship benefits.

2

3 **NEW SECTION. Section 20. Termination of pension when no surviving spouse or child.** If a
4 deceased school trustee does not leave a surviving spouse or a child under 18 years of age, the deceased school
5 trustee's pension terminates at the end of the month prior to the month in which the school trustee's death occurs.

6

7 **NEW SECTION. Section 21. Exemption from taxation and legal process.** (1) The first \$3,600 or the
8 amount of benefits, as determined pursuant to 15-30-111(2)(c)(ii), that are received under [sections 15 through
9 25] is exempt from state, county, and municipal taxation.

10 (2) Benefits received under [sections 15 through 25] are not subject to execution, garnishment,
11 attachment, or any other process.

12

13 **NEW SECTION. Section 22. Medical review of certain disability retirees.** The board may require
14 a member who receives a disability benefit to undergo periodic medical examinations. The examinations must
15 be made by a physician or surgeon at the member's residence or a place mutually agreeable to the board and
16 the member. Upon the basis of these examinations and the advice of the board's consulting physician, the board
17 shall determine, by reason of physical or mental capacity, whether the member remains eligible to receive a
18 disability benefit.

19

20 **NEW SECTION. Section 23. Cancellation and reinstatement of disability benefits.** (1) The board
21 may cancel a member's disability benefit if:

22 (a) the board determines, as provided in [section 22], that the member is no longer disabled;

23 (b) the member refuses to submit to a medical examination under [section 22]; or

24 (c) the member engages in a gainful occupation during the previous year and earns compensation
25 exceeding \$5,500.

26 (2) The cancellation of a disability benefit under this section does not prejudice any right of a member
27 to other pension benefits payable under [sections 1 through 31].

28 (3) If the member's earnings in any year after the cancellation of disability benefits under subsection
29 (1)(c) are less than \$5,500, the disability benefit must be reinstated.

30

1 **NEW SECTION. Section 24. Determination of disability.** (1) The board shall determine whether a
2 member has become disabled. In the discharge of its duty regarding determinations, the board, any member of
3 the board, or any authorized representative of the board may order medical examinations, conduct contested
4 case hearings, administer oaths and affirmations, take depositions, certify to official acts and records, and issue
5 subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence,
6 memoranda, and other records considered necessary as evidence in connection with a claim for disability
7 benefits.

8 (2) The board shall retain medical personnel to advise it in initially determining the nature and extent of
9 disabling conditions.

10
11 **NEW SECTION. Section 25. Time benefits commence.** (1) (a) Benefits for which a member or a
12 member's beneficiary is eligible under [sections 1 through 31]:

13 (i) are first payable beginning July 1, 2017; and

14 (ii) may not be paid retroactively, regardless of when a member may have first become eligible to retire.

15 (b) Expenses incurred prior to July 1, 2017, that are related to a disability that occurred prior to July 1,
16 2017, are not reimbursable. Expenses incurred after June 30, 2017, for a disability that would be reimbursable
17 under [sections 1 through 31] if the injury or illness causing the disability had occurred after June 30, 2017, are
18 reimbursable beginning July 1, 2017, regardless of when the injury or illness actually occurred.

19 (c) Funeral expenses incurred prior to July 1, 2017, that are related to the death of a school trustee who
20 died while conducting duties, as described in [section 5], prior to July 1, 2017, are not reimbursable under
21 [sections 1 through 31].

22 (2) Beginning July 1, 2017:

23 (a) the pension benefit payable pursuant to [sections 15 through 25] may commence on the first day of
24 the month following the eligible member's last day of service or on the first day of a later month following filing
25 of the written application;

26 (b) the disability retirement benefit payable pursuant to [sections 15 through 25] must commence on the
27 day following the member's termination from service; and

28 (c) monthly survivorship benefits payable pursuant to [sections 15 through 25] must commence on the
29 day following the death of the member.

30

1 **NEW SECTION. Section 26. Eligibility for medical and funeral expenses.** (1) To qualify for medical
2 expenses under [section 29], a school trustee must be serving in a school district that is not covered by workers'
3 compensation insurance for the school trustee's injury or illness when the injury or illness occurs.

4 (2) To qualify for funeral expenses under [section 30], a member must, at the time of death, be a school
5 trustee.

6
7 **NEW SECTION. Section 27. Procedure for claiming medical expenses.** (1) A member who claims
8 medical expenses under [section 29] shall submit a claim on a form provided by the board. The claim must be
9 verified by the member and by a competent medical authority. The claim must be submitted within 1 year from
10 the date of incurring the injury or illness.

11 (2) The claim must contain:

12 (a) the name and address of the member;

13 (b) the date, place, and manner of incurring the injury or illness;

14 (c) the name and address of the attending physician, surgeon, or nurse, if any;

15 (d) the dates of hospitalization, if hospitalized;

16 (e) an affidavit from the attending physician, surgeon, or nurse that describes the nature of the injury or
17 illness, the number and dates of visits, and the expenses;

18 (f) if hospitalized, an affidavit from a competent medical authority stating the nature of the injury or illness,
19 the dates of hospitalization, and the expenses;

20 (g) an affidavit signed by the member that the member was, at the time of the injury or illness, a school
21 trustee and that the injury or illness was incurred while conducting duties as described in [section 5].

22
23 **NEW SECTION. Section 28. Procedure for claiming funeral expenses.** A person claiming the funeral
24 expenses provided for in [section 30] shall submit the claim on a form provided by the board, in accordance with
25 the board's rules.

26
27 **NEW SECTION. Section 29. Medical expenses.** (1) The board shall authorize payment of some or
28 all medical expenses resulting from an injury or illness that was incurred while conducting duties, as described
29 in [section 5], and that required the services of a physician, surgeon, or nurse, whether or not the member was
30 hospitalized. The payments must equal the amount of the member's necessary and reasonable out-of-pocket

1 medical expenses that resulted directly from the injury or illness and that were billed within 36 months following
2 the date of the injury or illness. The total of reimbursements for claims submitted by the member may not exceed
3 \$25,000.

4 (2) If an injury incurred in the course of covered conduct results in the loss by amputation of an arm,
5 hand, leg, or foot, the enucleation of an eye, or the loss of any natural teeth, the board shall authorize either a
6 payment for the cost of a prosthesis or a payment of \$1,500 to help defray the cost of a prosthesis, whichever
7 is less. The prosthesis may be replaced when necessary, but not more often than once every 5 years. The board
8 shall authorize payment of not more than \$1,500 of the replacement costs.

9
10 **NEW SECTION. Section 30. Funeral expenses.** The board shall authorize payment of reasonable
11 expenses or \$1,500, whichever is less, to aid in defraying the funeral expenses of a school trustee whose death
12 occurs in the course of covered conduct.

13
14 **NEW SECTION. Section 31. Payment of medical and funeral expenses.** Whenever a claim under
15 [section 29 or 30] is received and approved by the board, payment must be made directly to the appropriate
16 provider of the medical care or funeral services.

17
18 **Section 32.** Section 17-7-502, MCA, is amended to read:

19 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
20 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
21 need for a biennial legislative appropriation or budget amendment.

22 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
23 of the following provisions:

24 (a) The law containing the statutory authority must be listed in subsection (3).

25 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
26 appropriation is made as provided in this section.

27 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-407;
28 5-13-403; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121;
29 15-23-706; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 15-70-369;
30 15-70-601; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319;

1 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; [section 13];
 2 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202; 23-4-204; 23-4-302; 23-4-304;
 3 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105;
 4 44-1-504; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 60-11-115; 61-3-415;
 5 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518;
 6 82-11-161; 87-1-513; 90-1-115; 90-1-205; 90-3-1003; and 90-9-306.

7 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 8 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 9 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
 10 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
 11 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
 12 appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of
 13 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L.
 14 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's
 15 unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates
 16 July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion
 17 of 15-35-108 terminates June 30, 2010; pursuant to sec. 7, Ch. 314, L. 2005, the inclusion of 23-4-105, 23-4-202,
 18 23-4-204, 23-4-302, and 23-4-304 becomes effective July 1, 2007; and pursuant to sec. 17, Ch. 593, L. 2005,
 19 the inclusion of 15-31-906 terminates January 1, 2010.)"

20

21 **Section 33.** Section 20-2-121, MCA, is amended to read:

22 **"20-2-121. Board of public education -- powers and duties.** The board of public education shall:

23 (1) effect an orderly and uniform system for teacher certification and specialist certification and for the
 24 issuance of an emergency authorization of employment by adopting the policies prescribed by 20-4-102 and
 25 20-4-111;

26 (2) consider the suspension or revocation of teacher or specialist certificates and appeals from the denial
 27 of teacher or specialist certification in accordance with the provisions of 20-4-110;

28 (3) administer and order the distribution of BASE aid in accordance with the provisions of 20-9-344;

29 (4) adopt and enforce policies to provide uniform standards and regulations for the design, construction,
 30 and operation of school buses in accordance with the provisions of 20-10-111;

1 (5) adopt policies prescribing the conditions when school may be conducted on Saturday and the types
 2 of pupil-instruction-related days and approval procedure for those days in accordance with the provisions of
 3 20-1-303 and 20-1-304;

4 (6) adopt standards of accreditation and establish the accreditation status of every school in accordance
 5 with the provisions of 20-7-101 and 20-7-102;

6 (7) approve or disapprove educational media selected by the superintendent of public instruction for the
 7 educational media library in accordance with the provisions of 20-7-201;

8 (8) adopt policies for the conduct of special education in accordance with the provisions of 20-7-402;

9 (9) adopt rules for issuance of documents certifying equivalency of completion of secondary education
 10 in accordance with 20-7-131;

11 (10) adopt policies for the conduct of programs for gifted and talented children in accordance with the
 12 provisions of 20-7-903 and 20-7-904;

13 (11) adopt rules for student assessment in the public schools; and

14 (12) formulate, supervise, and certify to the teachers' retirement board, provided for in 2-15-1010, one
 15 or more formal programs of instruction designed especially for school district trustees in matters pertaining to
 16 school administration, education policy, budgeting, education law, or other relevant subjects; and

17 ~~(12)~~(13) perform any other duty prescribed from time to time by this title or any other act of the
 18 legislature."

19

20 **Section 34.** Section 20-9-501, MCA, is amended to read:

21 **"20-9-501. Retirement costs and retirement fund.** (1) The trustees of a district or the management
 22 board of a cooperative ~~employing~~ that makes contributions to the school trustees' pension trust fund provided for
 23 in [section 6] or that employs personnel who are members of the teachers' retirement system or the public
 24 employees' retirement system, ~~or~~ who are covered by unemployment insurance, ~~or~~ who are covered by any
 25 federal social security system requiring employer contributions shall establish a retirement fund for the purposes
 26 of budgeting and paying the employer's contributions to the systems as provided in subsection (2)(a). The
 27 district's or the cooperative's contribution for each employee who is a member of the teachers' retirement system
 28 must be calculated in accordance with Title 19, chapter 20, part 6. The district's or the cooperative's contribution
 29 for each employee who is a member of the public employees' retirement system must be calculated in
 30 accordance with 19-3-316. The district's or the cooperative's contributions for each employee covered by any

1 federal social security system must be paid in accordance with federal law and regulation. The district's or the
2 cooperative's contribution for each employee who is covered by unemployment insurance must be paid in
3 accordance with Title 39, chapter 51, part 11. The district's or the cooperative's contribution for each trustee who
4 is covered by [sections 1 through 31] must be paid in accordance with [section 13].

5 (2) (a) The district or the cooperative shall pay the employer's contributions to the retirement, federal
6 social security, and unemployment insurance systems from the retirement fund for the following:

7 (i) a district employee whose salary and health-related benefits, if any health-related benefits are
8 provided to the employee, are paid from state or local funding sources;

9 (ii) a cooperative employee whose salary and health-related benefits, if any health-related benefits are
10 provided to the employee, are paid from the cooperative's interlocal agreement fund if the fund is supported solely
11 from districts' general funds and state special education allowable cost payments, pursuant to 20-9-321, or are
12 paid from the miscellaneous programs fund, provided for in 20-9-507, from money received from the medicaid
13 program, pursuant to 53-6-101;

14 (iii) a district employee whose salary and health-related benefits, if any health-related benefits are
15 provided to the employee, are paid from the district's school food services fund provided for in 20-10-204; ~~and~~

16 (iv) a district employee whose salary and health-related benefits, if any health-related benefits are
17 provided to the employee, are paid from the district impact aid fund, pursuant to 20-9-514; and

18 (v) a school trustee, as defined in [section 2].

19 (b) For an employee whose benefits are not paid from the retirement fund, the district or the cooperative
20 shall pay the employer's contributions to the retirement, federal social security, and unemployment insurance
21 systems from the funding source that pays the employee's salary.

22 (3) The trustees of a district required to make a contribution to a system referred to in subsection (1) shall
23 include in the retirement fund of the final budget the estimated amount of the employer's contribution. After the
24 final retirement fund budget has been adopted, the trustees shall pay the employer contributions to the systems
25 in accordance with the financial administration provisions of this title.

26 (4) When the final retirement fund budget has been adopted, the county superintendent shall establish
27 the levy requirement by:

28 (a) determining the sum of the money available to reduce the retirement fund levy requirement by adding:

29 (i) any anticipated money that may be realized in the retirement fund during the ensuing school fiscal
30 year;

- 1 (ii) oil and natural gas production taxes;
- 2 (iii) coal gross proceeds taxes under 15-23-703;
- 3 (iv) countywide school retirement block grants distributed under 20-9-631;
- 4 (v) any fund balance available for reappropriation as determined by subtracting the amount of the
- 5 end-of-the-year fund balance earmarked as the retirement fund operating reserve for the ensuing school fiscal
- 6 year by the trustees from the end-of-the-year fund balance in the retirement fund. The retirement fund operating
- 7 reserve may not be more than 35% of the final retirement fund budget for the ensuing school fiscal year and must
- 8 be used for the purpose of paying retirement fund warrants issued by the district under the final retirement fund
- 9 budget.
- 10 (vi) any other revenue anticipated that may be realized in the retirement fund during the ensuing school
- 11 fiscal year, excluding any guaranteed tax base aid.
- 12 (b) notwithstanding the provisions of subsection (9), subtracting the money available for reduction of the
- 13 levy requirement, as determined in subsection (4)(a), from the budgeted amount for expenditures in the final
- 14 retirement fund budget.
- 15 (5) The county superintendent shall:
- 16 (a) total the net retirement fund levy requirements separately for all elementary school districts, all high
- 17 school districts, and all community college districts of the county, including any prorated joint district or special
- 18 education cooperative agreement levy requirements; and
- 19 (b) report each levy requirement to the county commissioners on the fourth Monday of August as the
- 20 respective county levy requirements for elementary district, high school district, and community college district
- 21 retirement funds.
- 22 (6) The county commissioners shall fix and set the county levy or district levy in accordance with
- 23 20-9-142.
- 24 (7) The net retirement fund levy requirement for a joint elementary district or a joint high school district
- 25 must be prorated to each county in which a part of the district is located in the same proportion as the district ANB
- 26 of the joint district is distributed by pupil residence in each county. The county superintendents of the counties
- 27 affected shall jointly determine the net retirement fund levy requirement for each county as provided in 20-9-151.
- 28 (8) The net retirement fund levy requirement for districts that are members of special education
- 29 cooperative agreements must be prorated to each county in which the district is located in the same proportion
- 30 as the special education cooperative budget is prorated to the member school districts. The county

1 superintendents of the counties affected shall jointly determine the net retirement fund levy requirement for each
2 county in the same manner as provided in 20-9-151, and the county commissioners shall fix and levy the net
3 retirement fund levy for each county in the same manner as provided in 20-9-152.

4 (9) The county superintendent shall calculate the number of mills to be levied on the taxable property
5 in the county to finance the retirement fund net levy requirement by dividing the amount determined in subsection
6 (5)(a) by the sum of:

7 (a) the amount of guaranteed tax base aid that the county will receive for each mill levied, as certified
8 by the superintendent of public instruction; and

9 (b) the taxable valuation of the district divided by 1,000.

10 (10) The levy for a community college district may be applied only to property within the district.

11 (11) The county superintendent of each county shall submit a report of the revenue amounts used to
12 establish the levy requirements for county school funds supporting elementary and high school district retirement
13 obligations to the superintendent of public instruction not later than the second Monday in September. The report
14 must be completed on forms supplied by the superintendent of public instruction."
15

16 **NEW SECTION. Section 35. Codification instruction.** [Sections 1 through 31] are intended to be
17 codified as an integral part of Title 19, and the provisions of Title 19 apply to [sections 1 through 31].
18

19 **NEW SECTION. Section 36. Effective date.** [This act] is effective July 1, 2007.
20

21 **NEW SECTION. Section 37. Retroactive applicability.** [Sections 1 through 31] apply retroactively,
22 within the meaning of 1-2-109, for the purpose of determining service credit earned after June 30, 2002.
23

- END -